

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

CELLULAR COMMUNICATIONS
EQUIPMENT LLC,

Plaintiff,

v.

APPLE INC.,

Defendant.

Civil Action No. 6:14-cv-251-KNM

**APPLE'S NOTICE OF SUPPLEMENTAL AUTHORITY
IN SUPPORT OF INVALIDITY UNDER 35 U.S.C. § 101**

Pending before this Court is Apple’s motion for judgment of invalidity under 35 U.S.C. § 101. *See, e.g.*, Dkt. Nos. 331, 360, 369, 372 and 381. In further support of that motion, Apple respectfully submits the attached decision in *Cellular Communications Equipment LLC v. AT&T Inc.*, et al., No. 2:15-cv-00576-RWS-RSP (consol.), slip op. (E.D. Tex. June 27, 2017). In that case, CCE alleged that Apple (and other defendants) infringed patent claims relating to “power headroom reports,” which mobile phones use to communicate certain status information to the network to facilitate resource reallocation. *Id.* at 1. Pursuant to the *Alice* two-step analysis, Judge Payne recommends finding the claims invalid under 35 U.S.C. § 101 for lack of patent-eligible subject matter because the claims (1) are “directed to the patent-ineligible concept of calculating and reporting the missing power of a network device” and (2) “don’t include specific technological modifications that solve a problem or improve the functioning of the network”—instead reciting “only require conventional computer and network equipment.” *Id.* at 6-10.

Apple also respectfully submits the following recent Federal Circuit decisions finding claims ineligible under § 101:

- *Prism Techs. LLC v. T-Mobile USA, Inc.*, No. 2016-2031, 2017 WL 2705338 (Fed. Cir. June 23, 2017);
- *RecogniCorp, LLC v. Nintendo Co.*, 855 F.3d 1322 (Fed. Cir. Apr. 28, 2017);
- *Coffelt v. Nvidia Corp.*, No. 2017-1119, 2017 WL 999217 (Fed. Cir. Mar. 15, 2017);
- *Intellectual Ventures I LLC v. Erie Indemn. Co.*, 850 F.3d 1315 (Fed. Cir. Mar. 7, 2017);
- *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332 (Fed. Cir. Mar. 7, 2017); and
- *Smartflash LLC v. Apple Inc.*, No. 2016-1059, 2017 WL 786431 (Fed. Cir. Mar. 1, 2017).

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Respectfully submitted,

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**ATTORNEYS FOR
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CERTIFICATE OF SERVICE

I hereby certify that the all counsel of record who are deemed to have consented to electronic service are being served on June 30, 2017, with a copy of this document *via* the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ *Eric H. Findlay*

Eric H. Findlay